

AMENDED IN ASSEMBLY SEPTEMBER 2, 2003

AMENDED IN ASSEMBLY JULY 2, 2003

AMENDED IN SENATE MAY 5, 2003

**SENATE BILL**

**No. 1060**

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**Introduced by Committee on Revenue and Taxation (Senators  
Cedillo (Chair), Alpert, Bowen, and Burton)**

February 27, 2003

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An act to amend Sections ~~6405~~, 6459, 7093.5, 7326, 8105, 9271, 30459.1, 32471, 40211, 41171, 43522, 45867, 46622, 50156.11, 55332, 60022, 60507, 60604, 60606, and 60636 of, ~~and~~ to add Section 6451.5 to, *and to repeal Section 7262.7 of*, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1060, as amended, Committee on Revenue and Taxation. Tax administration.

~~(1) The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. Existing law exempts from the use tax the first \$400 of tangible personal property that is both purchased in a foreign country and personally hand-carried into this state.~~

~~This bill would increase that use tax exemption to the first \$800 of tangible personal property that is both purchased in a foreign country and personally hand-carried into this state.~~

~~(2)~~

(1) Existing law provides that the sales and use taxes are due and payable to the State Board of Equalization quarterly on or before the last day of the month next succeeding each quarterly period.

This bill would modify these provisions to require the purchaser to pay *the* use tax imposed on the gross receipts from the storage, use, or other consumption in this state of tangible personal property on or before the 15th day of the fourth month following the taxable year, as defined, in which the storage, use, or other consumption of the property first becomes taxable. The bill would exempt from this requirement certain persons, as provided. This bill would not apply to use tax due from the sale of, or the storage, use, or other consumption in this state, of, certain specified tangible personal property.

~~(3)–~~

(2) Existing law requires the State Board of Equalization to administer various taxes and fees. The State Board of Equalization, as part of its administrative functions, is authorized to enter into settlement agreements if it is determined that the settlement amount is consistent with a reasonable evaluation of the costs and risks associated with litigation. Under existing law, the State Board of Equalization is required to maintain records of settlement agreements in an amount that is in excess of \$500. There is no provision in current law that authorizes the State Board of Equalization to destroy those records after a reasonable period of time has elapsed.

This bill would provide that the State Board of Equalization is required to maintain those settlement agreement documents for at least one year.

~~(4)–~~

(3) Existing law requires sales and use tax returns to be filed and payments to be remitted on or before the last day of the month following the close of the reporting period. Existing law extends the time for filing tax returns and remitting payments in the case of a taxpayer that, as a result of the delay in the adoption of the state's budget, is an unpaid creditor of the state to the last day of the month in which the budget is adopted.

This bill would increase the extension of the time for filing the tax return and remitting the payment to the last day of the month following the month in which the budget is adopted.

(4) *Existing law authorizes the Board of Supervisors of the County of Stanislaus to impose a transactions and use tax by adoption of an ordinance, as specified, if certain conditions are satisfied.*



*This bill would repeal these provisions.*

(5) The existing Motor Vehicle Fuel Tax Law and Diesel Fuel Tax Law authorize a taxpayer to file a claim for refund within 3 years from the date the fuel was purchased.

This bill would authorize a taxpayer to file a claim for refund within 3 years from the date the fuel was purchased, or within 6 months from the date the taxpayer received the invoice for the tax, whichever period occurs later.

(6) The Motor Vehicle Fuel Tax Law imposes a tax on motor vehicle fuel at the point of the first distribution of that fuel, but does not exclude racing fuel from the definition of motor vehicle fuel.

This bill would exclude racing fuel from the definition of motor vehicle fuel.

(7) The provision of the existing Diesel Fuel Tax Law, which is scheduled to become inoperative on January 1, 2007, that defines the term diesel fuel, excludes from that definition gasoline, liquefied petroleum gas, natural gas in a liquid or gaseous form, and alcohol.

This bill would, for the period beginning on and after January 1, 2007, exclude gasoline, liquefied petroleum gas, natural gas in a liquid or gaseous form, and alcohol from the definition of diesel fuel.

(8) The existing Diesel Fuel Tax Law requires specified persons that are involved in the sale, removal, transportation, or storage of diesel fuel to keep and maintain specified records.

This bill would expand this recordkeeping requirement to qualified highway vehicle operators, highway vehicle operator/refuelers, pipeline operators, and vessel operators.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1    ~~SECTION 1.—Section 6405 of the Revenue and Taxation Code~~  
2    ~~is amended to read:~~  
3    ~~6405.—Notwithstanding Section 6246, the storage, use, or~~  
4    ~~other consumption in this state of the first eight hundred dollars~~  
5    ~~(\$800) of tangible personal property purchased in a foreign~~  
6    ~~country by an individual from a retailer and personally hand~~  
7    ~~carried into this state from the foreign country within any 30-day~~  
8    ~~period is exempt from the use tax. This section shall not apply to~~  
9    ~~property sent or shipped to this state.~~

~~SEC. 2.—~~

*SECTION 1.* Section 6451.5 is added to the Revenue and Taxation Code, to read:

6451.5. (a) Notwithstanding Section 6451, the use taxes imposed by this part with respect to the storage, use, or other consumption in this state of tangible personal property are due and payable by the purchaser on or before the 15th day of the fourth month following the taxable year in which the storage, use, or other consumption of the property first becomes taxable.

(b) For purposes of this section, “taxable year” means the calendar year or the fiscal year upon the basis of which the taxable income is computed pursuant to the Personal Income Tax Law (Part 10 (commencing with Section 17001)) or the Corporation Tax Law (Part 11 (commencing with Section 23001)). If no fiscal year has been established, “taxable year” means the calendar year.

(c) This section does not apply to a person who is otherwise required to hold a seller’s permit or to register with the board pursuant to this part, or to any person with purchases subject to use tax that exceed ten thousand dollars (\$10,000) during any calendar quarter of the taxable year for which the return is filed.

(d) This section shall not apply to use tax due from the sale of, or the storage, use, or other consumption in this state of the following:

(1) Use tax that applies to a mobilehome or a commercial coach that is required to be registered annually pursuant to the Health and Safety Code.

(2) Use tax that applies to a vessel or aircraft, as defined in Article 1 (commencing with Section 6271) of Chapter 3.5 of this part.

(3) Use tax that applies to a vehicle required to be registered under the Vehicle Code, a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or to a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code.

(4) Use tax imposed on a lessee of tangible personal property.

~~SEC. 3.—~~

*SEC. 2.* Section 6459 of the Revenue and Taxation Code is amended to read:

6459. (a) The board for good cause may extend, not to exceed one month, the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax would have been due without the extension until the date of payment.

(b) The board may grant an extension for more than one month if both of the following conditions occur:

(1) A budget for the state has not been adopted by July 1.

(2) The person requesting the extension is a creditor of the state who has not been paid because of the state's failure to timely adopt a budget.

Any extension granted under this subdivision shall expire no later than the last day of the month following the month, in which the budget is adopted or one month from the due date of the return or payment, whichever comes later.

Any person to whom an extension has been granted under this subdivision shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax would have been due without the extension until the date of payment. However, no interest shall be due on that portion of the payment equivalent to the amount due to the person from the state on the due date of the payment.

~~SEC. 4.—~~

*SEC. 3.* Section 7093.5 of the Revenue and Taxation Code is amended to read:

7093.5. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Except as provided in paragraph (3) and subject to paragraph (2), the executive director or chief counsel, if authorized

1 by the executive director, of the board may recommend to the State  
2 Board of Equalization, itself, a settlement of any civil tax matter  
3 in dispute.

4 (2) No recommendation of settlement shall be submitted to the  
5 board, itself, unless and until that recommendation has been  
6 submitted by the executive director or chief counsel to the  
7 Attorney General. Within 30 days of receiving that  
8 recommendation, the Attorney General shall review the  
9 recommendation and advise in writing the executive director or  
10 chief counsel of the board of his or her conclusions as to whether  
11 the recommendation is reasonable from an overall perspective.  
12 The executive director or chief counsel shall, with each  
13 recommendation of settlement submitted to the board, itself, also  
14 submit the Attorney General's written conclusions obtained  
15 pursuant to this paragraph.

16 (3) A settlement of any civil tax matter in dispute involving a  
17 reduction of tax or penalties in settlement, the total of which  
18 reduction of tax and penalties in settlement does not exceed five  
19 thousand dollars (\$5,000), may be approved by the executive  
20 director and chief counsel, jointly. The executive director shall  
21 notify the board, itself, of any settlement approved pursuant to this  
22 paragraph.

23 (c) Whenever a reduction of tax or penalties or total tax and  
24 penalties in settlement in excess of five hundred dollars (\$500) is  
25 approved pursuant to this section, there shall be placed on file, for  
26 at least one year, in the office of the executive director of the board  
27 a public record with respect to that settlement. The public record  
28 shall include all of the following information:

29 (1) The name or names of the taxpayers who are parties to the  
30 settlement.

31 (2) The total amount in dispute.

32 (3) The amount agreed to pursuant to the settlement.

33 (4) A summary of the reasons why the settlement is in the best  
34 interests of the State of California.

35 (5) For any settlement approved by the board, itself, the  
36 Attorney General's conclusion as to whether the recommendation  
37 of settlement was reasonable from an overall perspective.

38 The public record shall not include any information that relates  
39 to any trade secret, patent, process, style of work, apparatus,

1 business secret, or organizational structure that, if disclosed,  
2 would adversely affect the taxpayer or the national defense.

3 (d) The members of the State Board of Equalization shall not  
4 participate in the settlement of tax matters pursuant to this section,  
5 except as provided in subdivision (e).

6 (e) (1) Any recommendation for settlement shall be approved  
7 or disapproved by the board, itself, within 45 days of the  
8 submission of that recommendation to the board. Any  
9 recommendation for settlement that is not either approved or  
10 disapproved by the board, itself, within 45 days of the submission  
11 of that recommendation shall be deemed approved. Upon approval  
12 of a recommendation for settlement, the matter shall be referred  
13 back to the executive director or chief counsel in accordance with  
14 the decision of the board.

15 (2) Disapproval of a recommendation for settlement shall be  
16 made only by a majority vote of the board. Where the board  
17 disapproves a recommendation for settlement, the matter shall be  
18 remanded to board staff for further negotiation, and may be  
19 resubmitted to the board, in the same manner and subject to the  
20 same requirements as the initial submission, at the discretion of the  
21 executive director or chief counsel.

22 (f) All settlements entered into pursuant to this section shall be  
23 final and nonappealable, except upon a showing of fraud or  
24 misrepresentation with respect to a material fact.

25 (g) Any proceedings undertaken by the board itself pursuant to  
26 a settlement as described in this section shall be conducted in a  
27 closed session or sessions. Except as provided in subdivision (c),  
28 any settlement considered or entered into pursuant to this section  
29 shall constitute confidential tax information for purposes of  
30 Section 7056.

31 (h) This section shall apply only to civil tax matters in dispute  
32 on or after the effective date of the act adding this subdivision.

33 (i) The Legislature finds that it is essential for fiscal purposes  
34 that the settlement program authorized by this section be  
35 expeditiously implemented. Accordingly, Chapter 3.5  
36 (commencing with Section 11340) of Part 1 of Division 3 of Title  
37 2 of the Government Code shall not apply to any determination,  
38 rule, notice, or guideline established or issued by the board in  
39 implementing and administering the settlement program  
40 authorized by this section.

~~SEC. 5.—~~

~~SEC. 4. Section 7262.7 of the Revenue and Taxation Code is repealed.~~

~~7262.7. (a) In addition to the tax levied pursuant to Part 1.5 (commencing with Section 7200), and any other tax authorized by this part, the Board of Supervisors of the County of Stanislaus may impose a transactions and use tax by adoption of an ordinance in accordance with this part if each of the following conditions are met:~~

~~(1) The ordinance imposing the tax is submitted to and approved by the voters of the county in accordance with Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.~~

~~(2) The tax is imposed at a rate of one eighth of 1 percent for a period not to exceed five years.~~

~~(3) The revenues collected from the tax shall be used only for funding countywide library programs and operations.~~

~~(b) The Board of Supervisors of the County of Stanislaus may impose a transactions and use tax in any succeeding period not to exceed five years per period if all of the conditions specified in subdivision (a) are met for that succeeding period.~~

~~SEC. 5. Section 7326 of the Revenue and Taxation Code is amended to read:~~

~~7326. “Motor vehicle fuel” means gasoline and aviation gasoline. It does not include jet fuel, diesel fuel, kerosene, liquefied petroleum gas, natural gas in liquid or gaseous form, alcohol, or racing fuel.~~

~~SEC. 6. Section 8105 of the Revenue and Taxation Code is amended to read:~~

~~8105. All applications for refund provided under this article shall be filed within three years from the date of the purchase of the motor vehicle fuel or, if the tax was not invoiced at the time of the purchase of the motor vehicle fuel, the application for refund shall be filed within six months after the receipt of an invoice for the tax, whichever period expires later. Any application filed after the time prescribed shall not be considered for any purpose by the Controller, the Treasurer, or the state.~~

~~SEC. 7. Section 9271 of the Revenue and Taxation Code is amended to read:~~

9271. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any civil tax matter in dispute.

(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of tax in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

1 (d) The members of the State Board of Equalization shall not  
2 participate in the settlement of tax matters pursuant to this section,  
3 except as provided in subdivision (e).

4 (e) (1) Any recommendation for settlement shall be approved  
5 or disapproved by the board, itself, within 45 days of the  
6 submission of that recommendation to the board. Any  
7 recommendation for settlement that is not either approved or  
8 disapproved by the board within 45 days of the submission of that  
9 recommendation shall be deemed approved. Upon approval of a  
10 recommendation for settlement, the matter shall be referred back  
11 to the executive director or chief counsel in accordance with the  
12 decision of the board.

13 (2) Disapproval of a recommendation for settlement shall be  
14 made only by a majority vote of the board. Where the board  
15 disapproves a recommendation for settlement, the matter shall be  
16 remanded to board staff for further negotiation, and may be  
17 resubmitted to the board, in the same manner and subject to the  
18 same requirements as the initial submission, at the discretion of the  
19 executive director or chief counsel.

20 (f) All settlements entered into pursuant to this section shall be  
21 final and nonappealable, except upon a showing of fraud or  
22 misrepresentation with respect to a material fact.

23 (g) Any proceedings undertaken by the board itself pursuant to  
24 a settlement as described in this section shall be conducted in a  
25 closed session or sessions. Except as provided in subdivision (c),  
26 any settlement entered into pursuant to this section shall constitute  
27 confidential tax information for purposes of Section 9255.

28 (h) This section shall apply only to civil tax matters in dispute  
29 on or after the effective date of the act adding this subdivision.

30 (i) The Legislature finds that it is essential for fiscal purposes  
31 that the settlement program authorized by this section be  
32 expeditiously implemented. Accordingly, Chapter 3.5  
33 (commencing with Section 11340) of Part 1 of Division 3 of Title  
34 2 of the Government Code shall not apply to any determination,  
35 rule, notice, or guideline established or issued by the board in  
36 implementing and administering the settlement program  
37 authorized by this section.

38 SEC. 8. Section 30459.1 of the Revenue and Taxation Code  
39 is amended to read:

30459.1. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any civil tax matter in dispute.

(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of tax in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

1 (d) The members of the State Board of Equalization shall not  
2 participate in the settlement of tax matters pursuant to this section,  
3 except as provided in subdivision (e).

4 (e) (1) Any recommendation for settlement shall be approved  
5 or disapproved by the board, itself, within 45 days of the  
6 submission of that recommendation to the board. Any  
7 recommendation for settlement that is not either approved or  
8 disapproved by the board within 45 days of the submission of that  
9 recommendation shall be deemed approved. Upon approval of a  
10 recommendation for settlement, the matter shall be referred back  
11 to the executive director or chief counsel in accordance with the  
12 decision of the board.

13 (2) Disapproval of a recommendation for settlement shall be  
14 made only by a majority vote of the board. Where the board  
15 disapproves a recommendation for settlement, the matter shall be  
16 remanded to board staff for further negotiation, and may be  
17 resubmitted to the board, in the same manner and subject to the  
18 same requirements as the initial submission, at the discretion of the  
19 executive director or chief counsel.

20 (f) All settlements entered into pursuant to this section shall be  
21 final and nonappealable, except upon a showing of fraud or  
22 misrepresentation with respect to a material fact.

23 (g) Any proceedings undertaken by the board itself pursuant to  
24 a settlement as described in this section shall be conducted in a  
25 closed session or sessions. Except as provided in subdivision (c),  
26 any settlement entered into pursuant to this section shall constitute  
27 confidential tax information for purposes of Section 30455.

28 (h) This section shall apply only to civil tax matters in dispute  
29 on or after the effective date of the act adding this subdivision.

30 (i) The Legislature finds that it is essential for fiscal purposes  
31 that the settlement program authorized by this section be  
32 expeditiously implemented. Accordingly, Chapter 3.5  
33 (commencing with Section 11340) of Part 1 of Division 3 of Title  
34 2 of the Government Code shall not apply to any determination,  
35 rule, notice, or guideline established or issued by the board in  
36 implementing and administering the settlement program  
37 authorized by this section.

38 SEC. 9. Section 32471 of the Revenue and Taxation Code is  
39 amended to read:



32471. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any civil tax matter in dispute.

(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of tax in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

1 (d) The members of the State Board of Equalization shall not  
2 participate in the settlement of tax matters pursuant to this section,  
3 except as provided in subdivision (e).

4 (e) (1) Any recommendation for settlement shall be approved  
5 or disapproved by the board, itself, within 45 days of the  
6 submission of that recommendation to the board. Any  
7 recommendation for settlement that is not either approved or  
8 disapproved by the board within 45 days of the submission of that  
9 recommendation shall be deemed approved. Upon approval of a  
10 recommendation for settlement, the matter shall be referred back  
11 to the executive director or chief counsel in accordance with the  
12 decision of the board.

13 (2) Disapproval of a recommendation for settlement shall be  
14 made only by a majority vote of the board. Where the board  
15 disapproves a recommendation for settlement, the matter shall be  
16 remanded to board staff for further negotiation, and may be  
17 resubmitted to the board, in the same manner and subject to the  
18 same requirements as the initial submission, at the discretion of the  
19 executive director or chief counsel.

20 (f) All settlements entered into pursuant to this section shall be  
21 final and nonappealable, except upon a showing of fraud or  
22 misrepresentation with respect to a material fact.

23 (g) Any proceedings undertaken by the board itself pursuant to  
24 a settlement as described in this section shall be conducted in a  
25 closed session or sessions. Except as provided in subdivision (c),  
26 any settlement entered into pursuant to this section shall constitute  
27 confidential tax information for purposes of Section 32455.

28 (h) This section shall apply only to civil tax matters in dispute  
29 on or after the effective date of the act adding this subdivision.

30 (i) The Legislature finds that it is essential for fiscal purposes  
31 that the settlement program authorized by this section be  
32 expeditiously implemented. Accordingly, Chapter 3.5  
33 (commencing with Section 11340) of Part 1 of Division 3 of Title  
34 2 of the Government Code shall not apply to any determination,  
35 rule, notice, or guideline established or issued by the board in  
36 implementing and administering the settlement program  
37 authorized by this section.

38 SEC. 10. Section 40211 of the Revenue and Taxation Code is  
39 amended to read:

40211. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to surcharge matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any surcharge matter in dispute.

(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of surcharge in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the surcharge payers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the surcharge payer or the national defense.

1 (d) The members of the State Board of Equalization shall not  
2 participate in the settlement of surcharge matters pursuant to this  
3 section, except as provided in subdivision (e).

4 (e) (1) Any recommendation for settlement shall be approved  
5 or disapproved by the board, itself, within 45 days of the  
6 submission of that recommendation to the board. Any  
7 recommendation for settlement that is not either approved or  
8 disapproved by the board within 45 days of the submission of that  
9 recommendation shall be deemed approved. Upon approval of a  
10 recommendation for settlement, the matter shall be referred back  
11 to the executive director or chief counsel in accordance with the  
12 decision of the board.

13 (2) Disapproval of a recommendation for settlement shall be  
14 made only by a majority vote of the board. Where the board  
15 disapproves a recommendation for settlement, the matter shall be  
16 remanded to board staff for further negotiation, and may be  
17 resubmitted to the board, in the same manner and subject to the  
18 same requirements as the initial submission, at the discretion of the  
19 executive director or chief counsel.

20 (f) All settlements entered into pursuant to this section shall be  
21 final and nonappealable, except upon a showing of fraud or  
22 misrepresentation with respect to a material fact.

23 (g) Any proceedings undertaken by the board itself pursuant to  
24 a settlement as described in this section shall be conducted in a  
25 closed session or sessions.

26 (h) This section shall apply only to surcharge matters in dispute  
27 on or after the effective date of the act adding this subdivision.

28 (i) The Legislature finds that it is essential for fiscal purposes  
29 that the settlement program authorized by this section be  
30 expeditiously implemented. Accordingly, Chapter 3.5  
31 (commencing with Section 11340) of Part 1 of Division 3 of Title  
32 2 of the Government Code shall not apply to any determination,  
33 rule, notice, or guideline established or issued by the board in  
34 implementing and administering the settlement program  
35 authorized by this section.

36 SEC. 11. Section 41171 of the Revenue and Taxation Code is  
37 amended to read:

38 41171. (a) It is the intent of the Legislature that the State  
39 Board of Equalization, its staff, and the Attorney General pursue  
40 settlements as authorized under this section with respect to

1 surcharge matters in dispute that are the subject of protests,  
2 appeals, or refund claims, consistent with a reasonable evaluation  
3 of the costs and risks associated with litigation of these matters.

4 (b) (1) Subject to paragraph (2), the executive director or chief  
5 counsel, if authorized by the executive director, of the board may  
6 recommend to the State Board of Equalization, itself, a settlement  
7 of any surcharge matter in dispute.

8 (2) No recommendation of settlement shall be submitted to the  
9 board unless and until that recommendation has been submitted by  
10 the executive director or chief counsel to the Attorney General.  
11 Within 30 days of receiving that recommendation, the Attorney  
12 General shall review the recommendation and advise, in writing,  
13 the executive director or chief counsel of the board of his or her  
14 conclusions as to whether the recommendation is reasonable from  
15 an overall perspective. The executive director or chief counsel  
16 shall, with each recommendation of settlement submitted to the  
17 board, also submit the Attorney General's written conclusions  
18 obtained pursuant to this paragraph.

19 (c) Whenever a reduction of surcharge in settlement in excess  
20 of five hundred dollars (\$500) is approved pursuant to this section,  
21 there shall be placed on file, for at least one year, in the office of  
22 the executive director of the board a public record with respect to  
23 that settlement. The public record shall include all of the following  
24 information:

25 (1) The name or names of the surcharge payers who are parties  
26 to the settlement.

27 (2) The total amount in dispute.

28 (3) The amount agreed to pursuant to the settlement.

29 (4) A summary of the reasons why the settlement is in the best  
30 interests of the State of California.

31 (5) The Attorney General's conclusion as to whether the  
32 recommendation of settlement was reasonable from an overall  
33 perspective.

34 The public record shall not include any information that relates  
35 to any trade secret, patent, process, style of work, apparatus,  
36 business secret, or organizational structure that, if disclosed,  
37 would adversely affect the surcharge payer or the national defense.

38 (d) The members of the State Board of Equalization shall not  
39 participate in the settlement of surcharge matters pursuant to this  
40 section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back to the executive director or chief counsel in accordance with the decision of the board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.

(f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions.

(h) This section shall apply only to surcharge matters in dispute on or after the effective date of the act adding this subdivision.

(i) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the board in implementing and administering the settlement program authorized by this section.

SEC. 12. Section 43522 of the Revenue and Taxation Code is amended to read:

43522. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any civil tax matter in dispute which arises under Section 105190 or 105310 of the Health and Safety Code.

(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of tax in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of tax matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the

1 submission of that recommendation to the board. Any  
2 recommendation for settlement that is not either approved or  
3 disapproved by the board within 45 days of the submission of that  
4 recommendation shall be deemed approved. Upon approval of a  
5 recommendation for settlement, the matter shall be referred back  
6 to the executive director or chief counsel in accordance with the  
7 decision of the board.

8 (2) Disapproval of a recommendation for settlement shall be  
9 made only by a majority vote of the board. Where the board  
10 disapproves a recommendation for settlement, the matter shall be  
11 remanded to board staff for further negotiation, and may be  
12 resubmitted to the board, in the same manner and subject to the  
13 same requirements as the initial submission, at the discretion of the  
14 executive director or chief counsel.

15 (f) All settlements entered into pursuant to this section shall be  
16 final and nonappealable, except upon a showing of fraud or  
17 misrepresentation with respect to a material fact.

18 (g) Any proceedings undertaken by the board itself pursuant to  
19 a settlement as described in this section shall be conducted in a  
20 closed session or sessions. Except as provided in subdivision (c),  
21 any settlement entered into pursuant to this section shall constitute  
22 confidential tax information for purposes of Section 43651.

23 (h) This section shall apply only to civil tax matters in dispute  
24 on or after the effective date of the act adding this subdivision.

25 (i) The Legislature finds that it is essential for fiscal purposes  
26 that the settlement program authorized by this section be  
27 expeditiously implemented. Accordingly, Chapter 3.5  
28 (commencing with Section 11340) of Part 1 of Division 3 of Title  
29 2 of the Government Code shall not apply to any determination,  
30 rule, notice, or guideline established or issued by the board in  
31 implementing and administering the settlement program  
32 authorized by this section.

33 SEC. 13. Section 45867 of the Revenue and Taxation Code is  
34 amended to read:

35 45867. (a) It is the intent of the Legislature that the State  
36 Board of Equalization, its staff, and the Attorney General pursue  
37 settlements as authorized under this section with respect to fee  
38 matters in dispute that are the subject of protests, appeals, or refund  
39 claims, consistent with a reasonable evaluation of the costs and  
40 risks associated with litigation of these matters.

(b) (1) Subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any fee matter in dispute.

(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of fees in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the feepayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the feepayer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of fee matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any

1 recommendation for settlement that is not either approved or  
2 disapproved by the board within 45 days of the submission of that  
3 recommendation shall be deemed approved. Upon approval of a  
4 recommendation for settlement, the matter shall be referred back  
5 to the executive director or chief counsel in accordance with the  
6 decision of the board.

7 (2) Disapproval of a recommendation for settlement shall be  
8 made only by a majority vote of the board. Where the board  
9 disapproves a recommendation for settlement, the matter shall be  
10 remanded to board staff for further negotiation, and may be  
11 resubmitted to the board, in the same manner and subject to the  
12 same requirements as the initial submission, at the discretion of the  
13 executive director or chief counsel.

14 (f) All settlements entered into pursuant to this section shall be  
15 final and nonappealable, except upon a showing of fraud or  
16 misrepresentation with respect to a material fact.

17 (g) Any proceedings undertaken by the board itself pursuant to  
18 a settlement as described in this section shall be conducted in a  
19 closed session or sessions. Except as provided in subdivision (c),  
20 any settlement entered into pursuant to this section shall constitute  
21 confidential information for purposes of Section 45982.

22 (h) This section shall apply only to fee matters in dispute on or  
23 after the effective date of the act adding this subdivision.

24 (i) The Legislature finds that it is essential for fiscal purposes  
25 that the settlement program authorized by this section be  
26 expeditiously implemented. Accordingly, Chapter 3.5  
27 (commencing with Section 11340) of Part 1 of Division 3 of Title  
28 2 of the Government Code shall not apply to any determination,  
29 rule, notice, or guideline established or issued by the board in  
30 implementing and administering the settlement program  
31 authorized by this section.

32 SEC. 14. Section 46622 of the Revenue and Taxation Code is  
33 amended to read:

34 46622. (a) It is the intent of the Legislature that the State  
35 Board of Equalization, its staff, and the Attorney General pursue  
36 settlements as authorized under this section with respect to fee  
37 matters in dispute that are the subject of protests, appeals, or refund  
38 claims, consistent with a reasonable evaluation of the costs and  
39 risks associated with litigation of these matters.

1 (b) (1) Subject to paragraph (2), the executive director or chief  
2 counsel, if authorized by the executive director, of the board may  
3 recommend to the State Board of Equalization, itself, a settlement  
4 of any civil fee matter in dispute.

5 (2) No recommendation of settlement shall be submitted to the  
6 board unless and until that recommendation has been submitted by  
7 the executive director or chief counsel to the Attorney General.  
8 Within 30 days of receiving that recommendation, the Attorney  
9 General shall review the recommendation and advise, in writing,  
10 the executive director or chief counsel of the board of his or her  
11 conclusions as to whether the recommendation is reasonable from  
12 an overall perspective. The executive director or chief counsel  
13 shall, with each recommendation of settlement submitted to the  
14 board, also submit the Attorney General's written conclusions  
15 obtained pursuant to this paragraph.

16 (c) Whenever a reduction of fee in settlement in excess of five  
17 hundred dollars (\$500) is approved pursuant to this section, there  
18 shall be placed on file, for at least one year, in the office of the  
19 executive director of the board a public record with respect to that  
20 settlement. The public record shall include all of the following  
21 information:

22 (1) The name or names of the feepayers who are parties to the  
23 settlement.

24 (2) The total amount in dispute.

25 (3) The amount agreed to pursuant to the settlement.

26 (4) A summary of the reasons why the settlement is in the best  
27 interests of the State of California.

28 (5) The Attorney General's conclusion as to whether the  
29 recommendation of settlement was reasonable from an overall  
30 perspective.

31 The public record shall not include any information that relates  
32 to any trade secret, patent, process, style of work, apparatus,  
33 business secret, or organizational structure that, if disclosed,  
34 would adversely affect the feepayer or the national defense.

35 (d) The members of the State Board of Equalization shall not  
36 participate in the settlement of fee matters pursuant to this section,  
37 except as provided in subdivision (e).

38 (e) (1) Any recommendation of settlement shall be approved  
39 or disapproved by the board, itself, within 45 days of the  
40 submission of that recommendation to the board. Any

1 recommendation for settlement that is not either approved or  
2 disapproved by the board within 45 days of the submission of that  
3 recommendation shall be deemed approved. Upon approval of a  
4 recommendation for settlement, the matter shall be referred back  
5 to the executive director or chief counsel in accordance with the  
6 decision of the board.

7 (2) Disapproval of a recommendation for settlement shall be  
8 made only by a majority vote of the board. Where the board  
9 disapproves a recommendation for settlement, the matter shall be  
10 remanded to board staff for further negotiation, and may be  
11 resubmitted to the board, in the same manner and subject to the  
12 same requirements as the initial submission, at the discretion of the  
13 executive director or chief counsel.

14 (f) All settlements entered into pursuant to this section shall be  
15 final and nonappealable, except upon a showing of fraud or  
16 misrepresentation with respect to a material fact.

17 (g) Any proceedings undertaken by the board itself pursuant to  
18 a settlement as described in this section shall be conducted in a  
19 closed session or sessions.

20 (h) This section shall apply only to fee matters in dispute on or  
21 after the effective date of the act adding this subdivision.

22 (i) The Legislature finds that it is essential for fiscal purposes  
23 that the settlement program authorized by this section be  
24 expeditiously implemented. Accordingly, Chapter 3.5  
25 (commencing with Section 11340) of Part 1 of Division 3 of Title  
26 2 of the Government Code shall not apply to any determination,  
27 rule, notice, or guideline established or issued by the board in  
28 implementing and administering the settlement program  
29 authorized by this section.

30 SEC. 15. Section 50156.11 of the Revenue and Taxation Code  
31 is amended to read:

32 50156.11. (a) It is the intent of the Legislature that the State  
33 Board of Equalization, its staff, and the Attorney General pursue  
34 settlements as authorized under this section with respect to fee  
35 matters in dispute that are the subject of protests, appeals, or refund  
36 claims, consistent with a reasonable evaluation of the costs and  
37 risks associated with litigation of these matters.

38 (b) (1) Subject to paragraph (2), the executive director or chief  
39 counsel, if authorized by the executive director, of the board may

1 recommend to the State Board of Equalization, itself, a settlement  
2 of any fee matter in dispute.

3 (2) No recommendation of settlement shall be submitted to the  
4 board unless and until that recommendation has been submitted by  
5 the executive director or chief counsel to the Attorney General.  
6 Within 30 days of receiving that recommendation, the Attorney  
7 General shall review the recommendation and advise, in writing,  
8 the executive director or chief counsel of the board of his or her  
9 conclusions as to whether the recommendation is reasonable from  
10 an overall perspective. The executive director or chief counsel  
11 shall, with each recommendation of settlement submitted to the  
12 board, also submit the Attorney General's written conclusions  
13 obtained pursuant to this paragraph.

14 (c) Whenever a reduction of fees in settlement in excess of five  
15 hundred dollars (\$500) is approved pursuant to this section, there  
16 shall be placed on file, for at least one year, in the office of the  
17 executive director of the board a public record with respect to that  
18 settlement. The public record shall include all of the following  
19 information:

20 (1) The name or names of the feepayers who are parties to the  
21 settlement.

22 (2) The total amount in dispute.

23 (3) The amount agreed to pursuant to the settlement.

24 (4) A summary of the reasons why the settlement is in the best  
25 interests of the State of California.

26 (5) The Attorney General's conclusion as to whether the  
27 recommendation of settlement was reasonable from an overall  
28 perspective.

29 The public record shall not include any information that relates  
30 to any trade secret, patent, process, style of work, apparatus,  
31 business secret, or organizational structure that, if disclosed,  
32 would adversely affect the feepayer or the national defense.

33 (d) The members of the State Board of Equalization shall not  
34 participate in the settlement of fee matters pursuant to this section,  
35 except as provided in subdivision (e).

36 (e) (1) Any recommendation for settlement shall be approved  
37 or disapproved by the board, itself, within 45 days of the  
38 submission of that recommendation to the board. Any  
39 recommendation for settlement that is not either approved or  
40 disapproved by the board within 45 days of the submission of that

1 recommendation shall be deemed approved. Upon approval of a  
2 recommendation for settlement, the matter shall be referred back  
3 to the executive director or chief counsel in accordance with the  
4 decision of the board.

5 (2) Disapproval of a recommendation for settlement shall be  
6 made only by a majority vote of the board. Where the board  
7 disapproves a recommendation for settlement, the matter shall be  
8 remanded to board staff for further negotiation, and may be  
9 resubmitted to the board, in the same manner and subject to the  
10 same requirements as the initial submission, at the discretion of the  
11 executive director or chief counsel.

12 (f) All settlements entered into pursuant to this section shall be  
13 final and nonappealable, except upon a showing of fraud or  
14 misrepresentation with respect to a material fact.

15 (g) Any proceedings undertaken by the board itself pursuant to  
16 a settlement as described in this section shall be conducted in a  
17 closed session or sessions.

18 (h) This section shall apply only to fee matters in dispute on or  
19 after the effective date of the act adding this subdivision.

20 (i) The Legislature finds that it is essential for fiscal purposes  
21 that the settlement program authorized by this section be  
22 expeditiously implemented. Accordingly, Chapter 3.5  
23 (commencing with Section 11340) of Part 1 of Division 3 of Title  
24 2 of the Government Code shall not apply to any determination,  
25 rule, notice, or guideline established or issued by the board in  
26 implementing and administering the settlement program  
27 authorized by this section.

28 SEC. 16. Section 55332 of the Revenue and Taxation Code is  
29 amended to read:

30 55332. (a) It is the intent of the Legislature that the State  
31 Board of Equalization, its staff, and the Attorney General pursue  
32 settlements as authorized under this section with respect to fee  
33 matters in dispute that are the subject of protests, appeals, or refund  
34 claims, consistent with a reasonable evaluation of the costs and  
35 risks associated with litigation of these matters.

36 (b) (1) Subject to paragraph (2), the executive director or chief  
37 counsel, if authorized by the executive director, of the board may  
38 recommend to the State Board of Equalization, itself, a settlement  
39 of any fee matter in dispute.

(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of fees in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the feepayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the feepayer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of fee matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved. Upon approval of a recommendation for settlement, the matter shall be referred back

1 to the executive director or chief counsel in accordance with the  
2 decision of the board.

3 (2) Disapproval of a recommendation for settlement shall be  
4 made only by a majority vote of the board. Where the board  
5 disapproves a recommendation for settlement, the matter shall be  
6 remanded to board staff for further negotiation, and may be  
7 resubmitted to the board, in the same manner and subject to the  
8 same requirements as the initial submission, at the discretion of the  
9 executive director or chief counsel.

10 (f) All settlements entered into pursuant to this section shall be  
11 final and nonappealable, except upon a showing of fraud or  
12 misrepresentation with respect to a material fact.

13 (g) Any proceedings undertaken by the board itself pursuant to  
14 a settlement as described in this section shall be conducted in a  
15 closed session or sessions. Except as provided in subdivision (c),  
16 any settlement entered into pursuant to this section shall constitute  
17 confidential information for purposes of Section 55381.

18 (h) This section shall apply only to fee matters in dispute on or  
19 after the effective date of the act adding this subdivision.

20 (i) The Legislature finds that it is essential for fiscal purposes  
21 that the settlement program authorized by this section be  
22 expeditiously implemented. Accordingly, Chapter 3.5  
23 (commencing with Section 11340) of Part 1 of Division 3 of Title  
24 2 of the Government Code shall not apply to any determination,  
25 rule, notice, or guideline established or issued by the board in  
26 implementing and administering the settlement program  
27 authorized by this section.

28 SEC. 17. Section 60022 of the Revenue and Taxation Code,  
29 as added by Section 3 of Chapter 8 of the Second Extraordinary  
30 Session of 2001, is amended to read:

31 60022. (a) "Diesel fuel" means any liquid that is commonly  
32 or commercially known or sold as a fuel that is suitable for use in  
33 a diesel-powered highway vehicle. A liquid meets this  
34 requirement if, without further processing or blending, the liquid  
35 has practical and commercial fitness for use in the engine of a  
36 diesel-powered highway vehicle.

37 However, a liquid does not possess this practical and  
38 commercial fitness solely by reason of its possible or rare use as  
39 a fuel in the engine of a diesel-powered highway vehicle.

1 “Diesel fuel” does not include kerosene, gasoline, liquified  
2 petroleum gas, natural gas in liquid or gaseous form, or alcohol.

3 (b) This section shall become operative on January 1, 2007.

4 SEC. 18. Section 60507 of the Revenue and Taxation Code is  
5 amended to read:

6 60507. All applications for refund provided under this article  
7 shall be filed within three years from the date of the purchase of  
8 the diesel fuel or, if the tax was not invoiced at the time of the  
9 purchase of the diesel fuel, the application for refund shall be filed  
10 within six months after the receipt of an invoice for the tax,  
11 whichever period expires later. Any application filed after the time  
12 prescribed shall not be considered for any purpose by the board,  
13 the Treasurer, or the state.

14 SEC. 19. Section 60604 of the Revenue and Taxation Code is  
15 amended to read:

16 60604. Every interstate user, supplier, exempt bus operator,  
17 government entity, ultimate vendor, qualified highway vehicle  
18 operator, highway vehicle operator/refueler, train operator,  
19 pipeline operator, vessel operator, and every person dealing in,  
20 removing, transporting, or storing diesel fuel in this state shall  
21 keep those records, receipts, invoices, and other pertinent papers  
22 with respect thereto in that form as the board may require. Failure  
23 to maintain records will constitute a misdemeanor punishable as  
24 provided in Section 60706.

25 SEC. 20. Section 60606 of the Revenue and Taxation Code is  
26 amended to read:

27 60606. The board or its authorized representative may  
28 examine the books, records, and equipment of any interstate user,  
29 supplier, exempt bus operator, government entity, ultimate vendor,  
30 qualified highway vehicle operator, highway vehicle  
31 operator/refueler, train operator, pipeline operator, vessel  
32 operator, or person dealing in, removing, transporting, or storing  
33 diesel fuel and may investigate the character of the disposition that  
34 the interstate user, supplier, exempt bus operator, government  
35 entity, ultimate vendor, qualified highway vehicle operator,  
36 highway vehicle operator/refueler, train operator, pipeline  
37 operator, vessel operator, or person makes of the diesel fuel in  
38 order to ascertain whether all taxes due under this part are being  
39 properly reported and paid.

SEC. 21. Section 60636 of the Revenue and Taxation Code is amended to read:

60636. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.

(b) (1) Subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any civil tax matter in dispute.

(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director or chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise, in writing, the executive director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of tax in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the executive director of the board a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) The Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus,

1 business secret, or organizational structure that, if disclosed,  
2 would adversely affect the taxpayer or the national defense.

3 (d) The members of the State Board of Equalization shall not  
4 participate in the settlement of tax matters pursuant to this section,  
5 except as provided in subdivision (e).

6 (e) (1) Any recommendation for settlement shall be approved  
7 or disapproved by the board, itself, within 45 days of the  
8 submission of that recommendation to the board. Any  
9 recommendation for settlement that is not either approved or  
10 disapproved by the board within 45 days of the submission of that  
11 recommendation shall be deemed approved. Upon approval of a  
12 recommendation for settlement, the matter shall be referred back  
13 to the executive director or chief counsel in accordance with the  
14 decision of the board.

15 (2) Disapproval of a recommendation for settlement shall be  
16 made only by a majority vote of the board. Where the board  
17 disapproves a recommendation for settlement, the matter shall be  
18 remanded to board staff for further negotiation, and may be  
19 resubmitted to the board, in the same manner and subject to the  
20 same requirements as the initial submission, at the discretion of the  
21 executive director or chief counsel.

22 (f) All settlements entered into pursuant to this section shall be  
23 final and nonappealable, except upon a showing of fraud or  
24 misrepresentation with respect to a material fact.

25 (g) Any proceedings undertaken by the board itself pursuant to  
26 a settlement as described in this section shall be conducted in a  
27 closed session or sessions. Except as provided in subdivision (c),  
28 any settlement entered into pursuant to this section shall constitute  
29 confidential tax information for purposes of Section 60609.

30 (h) This section shall apply only to civil tax matters in dispute  
31 on or after the effective date of the act adding this subdivision.

32 (i) The Legislature finds that it is essential for fiscal purposes  
33 that the settlement program authorized by this section be  
34 expeditiously implemented. Accordingly, Chapter 3.5  
35 (commencing with Section 11340) of Part 1 of Division 3 of Title  
36 2 of the Government Code shall not apply to any determination,  
37 rule, notice, or guideline established or issued by the board in  
38 implementing and administering the settlement program  
39 authorized by this section.

1     SEC. 22. Section 2 of this act shall become operative only if  
2     Senate Bill 1009 is not enacted during the 2003 portion of the  
3     2003–04 Regular Session.

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